

ER-7-8816

3 February 1956

HIDDEN/DO/PROH (MISSING PERSONS ACT)

Mr. Richard A. Buddcke
Director, Legislative Programs
Office of Assistant Secretary
(Legislative & Public Affairs)
Department of Defense
Washington 25, D. C.

Dear Mr. Buddcke:

The Central Intelligence Agency is in accord with the general revision to the Missing Persons Act proposed by the Department of Defense. We propose, however, the addition of the following, as a new section or as an additional provision of Section 9:

A dependent of any person in active service, as defined by this Act, is a 'person' under this Act for the sole purpose of determining status as provided in sections 5 and 9, and any determination under those sections by the head of the department concerned shall be conclusive on all other departments of the Government; Provided, that nothing in this section shall be construed as conferring upon any dependent any right to pay, allowances or other compensation to which not otherwise entitled.

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Such a provision would permit the head of the concerned department to make a determination of status (including death) with respect to dependents, as he now may with respect to employees. The rationale for permitting him to make the determination is the same in the two cases -- he is uniquely in possession of all the facts. Where the facts involve elements related to the national security, there may be no way in which the determination of status can be made unless the department head makes it.

Under the present language of the Act, if the employee and his dependents entered into a missing status together, and under circumstances justifying a determination of death, the department head could make such determination with respect to the employee, but the status of the dependents would remain in limbo pending judicial determination.

DATE	7 MAY 1956	BY	38	TYPE	21
ORIG CLASS	C	REV CLASS	2	AUTH:	HR 10-2
JUST	22	NEXT REV	2011		

Not only does judicial process involve added expense for survivors, but the resulting delay may bring them undue hardship, negating some of the purposes of the Act. If, for example, an employee and his wife were missing, under circumstances where a determination of death might be made, a determination that the employee was dead would accomplish no useful administrative purpose, since the settlement of the employee's accounts, and payments to the children or other survivors, would of necessity await a determination of the status of the wife.

If the purposes of the Act include certainty in administrative determinations and equitable treatment for survivors, these purposes will be served by the proposed provision, and at no expense to the Government.

The Central Intelligence Agency has a particular interest in the proposed provision because of two factors: the mission of this Agency may require the presence of dependents in areas, and under circumstances, where the risk of entering into a missing status is considerable. In this connection it should be pointed out that it is a time-honored tactic in the intelligence business to harass principals through actions directed at dependents.

This provision, and the reasons therefor, have been discussed with Mr. Roger Jones of the Bureau of the Budget, and I believe it would be acceptable to the Bureau in its present form.

If there are further questions, we will be happy to discuss them with you and your staff at any time.

Sincerely yours,

S/

Norman S. Paul
Legislative Counsel

OGC:RPB

IG:NSP

2 - Signer

2 - OGC

1 - Dir. of Personnel

1 - Comptroller ✓